

**CITY OF FAIRMONT
WEST VIRGINIA**



RFP FY17-14

**WINDMILL PARK SOFTBALL OPERATOR
FOR THE CITY OF FAIRMONT**

SEALED RESPONSES ARE DUE:

4:00 P.M.

WEDNESDAY, JUNE 28, 2017

**CITY OF FAIRMONT
ATTN: PAULA FRIEND, PURCHASING
CITY COUNTY COMPLEX
200 JACKSON STREET – ROOM 305
FAIRMONT, WV 26554**



REQUEST FOR PROPOSALS

Sealed proposals will be received by the Purchasing Coordinator of the City of Fairmont, Marion County, West Virginia, at the City Manager's Office, City Hall, until 4:00 p.m. local prevailing time, Wednesday, June 28, 2017 for the following:

RFP FY17-14 WINDMILL PARK SOFTBALL OPERATOR FOR THE CITY OF FAIRMONT

Further information concerning this project may be obtained from the Office of the Purchasing Coordinator at (304) 366-6212, ext. 310, online at fairmontwv.gov/bids.aspx or by email at pfriend@fairmontwv.gov.

The City Manager reserves the right to refuse or reject any part or all proposals or to waive any irregularity in any proposal when he deems such action advantageous to the City of Fairmont.

Paula Friend
Purchasing Coordinator



REQUEST FOR PROPOSALS (RFP) – FY17-14

WINDMILL PARK SOFTBALL OPERATOR FOR THE CITY OF FAIRMONT, WEST VIRGINIA

Proposals Due: Wednesday, June 28, 2017 at 4:00 p.m. (EST)

REQUEST FOR PROPOSALS

I. PURPOSE

The City of Fairmont, WV is issuing this Request for Proposals (RFP) to interested and qualified firms, corporations, or individuals for the independent administration and operation of adult softball leagues at the City of Fairmont's Windmill Park located at 900 Ogden Ave, Fairmont WV 26554.

II. INTRODUCTION

Located in the heart of the I-79 Technology Corridor, Fairmont is the county seat of Marion County with a population of 18,704. Chartered in 1899, the City of Fairmont provides professional services through its Fire, Police, Building Inspection, Code Enforcement, Planning, Public Works, Finance, Legal, and Water, Wastewater/Stormwater Departments. Fairmont operates a Council/Manager form of government with the City Manager serving as the Chief Administrative Officer of the City. The City's website is located at www.fairmontwv.gov.

III. BACKGROUND

The City of Fairmont currently owns and maintains Windmill Park (see Attachment A) that is typically open for usage from April 1 – October 31, a passive and active park of approximately 21.6 acres in size, comprising/featuring the following:

- a. a children's playground
- b. various open green spaces
- c. a stand-alone bathroom (men's and women's) building
- d. a building currently comprising concessionaire services, additional men's and women's bathrooms, and storage
- e. 2 pavilions with picnic tables
- f. a paved open space area (formerly a basketball court)
- g. 3 mixed-use fields with 2 fields on the Park's west side primarily for adult softball (practices and games) usage with the field farthest to the west containing lights for night-time play and a third field utilized for various sports activities (practices and games) including softball, football, rugby, and soccer
- h. an additional mixed-use field located on the Park's east side primarily used for adult and youth soccer
- i. 2 paved basketball courts
- j. Approximately 65 paved parking spaces
- k. Approximately 35 graveled parking spaces

Currently the City performs routine park maintenance work comprising of: mowing/weeding of all grass/green areas, general landscaping, trash container maintenance (emptying/disposing), parking lot (paved and gravel) maintenance/stripping, rest/bathroom cleaning, and general repair/maintenance work of the existing structures to include the two buildings, pavilions, and signage.

The City also pays for all Park utilities including electricity, water, and sewer and schedules all activities (practices, games, pavilion usage, etc.) at the park.

IV. PRELIMINARY SCOPE OF WORK

A final scope of work will be developed with the City and the respondent submitting the selected proposal (“The Contractor”) at the time of selection. The following acts only as a preliminary scope to generally communicate the City’s expectations. The City is interested in a qualified firm, corporation, or individual for the independent administration and operation of adult softball leagues that offer, at a minimum, the following:

1. Adult Softball League structure including sanctioning, gender, and league levels.
2. Season duration including dates, days of the week specific to each league and level, team practice times, and team game times preferred each day of the week for both practices and games.
3. Number of seasons, i.e., spring, summer, fall.
4. Number of scheduled league games for each level.
5. Anticipated league fees for each team for each season and a detailed list of what the fees include, such as softballs, playoff berths, trophies, umpire wages per game, revenue sharing with the City of Fairmont, etc.
6. Amount of revenue-sharing or leasing fees paid to the City of Fairmont.
7. Past experience administering and operating softball leagues.
8. Staffing plan for umpires and umpire standards/credentials.
9. Communication plan with participating teams, team managers, and umpires.
10. Communication plan with City of Fairmont Parks Coordinator and Public Works
11. Name, address, email, phone #, and website address of responding operator and their league director’s contact information (if different)

The City expects that the Contractor and the City will work together to plan and organize the implementation of this program. Actual organizational structure will be set following selection of contractor.

V. REQUIREMENTS

Softball Operator Requirements

All proposals must address the following to be considered in the selection process:

1. Currently possess Adult Softball League national or state and local sanctioning for each gender and league level, if applicable.

2. Provide a schedule detailing for all seasons, all team practice dates and times and all league regular season and playoff game dates and times
3. Provide a schedule detailing for all tournaments, all tournament game dates and times
4. Specifically list/detail all fees to be charged whether for each team and/or player and what the fees will pay for including all equipment, field maintenance, umpire fees, trophies, uniforms, scorebooks, fee paid to the City as rent/lease, etc.
5. Detail listings of any past experience operating adult softball leagues.
6. Detailed marketing and communication plans between league and teams/players and between City and operator, including plans on marketing for leagues and tournaments.
7. A field maintenance plan for the grass outfields and the dirt infields.
8. Contractor will be required to maintain a list/roster of all players/coaches/participants/board members and shall make the list available to the City of Fairmont. The individuals on the list/roster will be required to obtain and maintain liability and accident insurance. It will be the Contractor's responsibility to insure that all individuals are properly insured at all times.
9. Contractor is responsible for any and all licensing, including Federal, State and Local licensing, and any and all fees and taxes to the State of WV and to the City of Fairmont, including Business and Occupation Tax.

Qualifications:

Selection of a proposal for contract will be at the sole judgment of the City. Only those respondents meeting the following conditions, however, will be considered:

- Respondent must demonstrate affiliation and/or certification with a national and/or state/local softball association, i.e., USSSA, ASA, etc.
- Respondent must provide references for at least three (3) organizations or team representatives that have participated in a league run by the operator for at least 3 seasons. Other references may be provided by either vendors, softball affiliation organizations, and/or other competent organization/individual related to softball operations.
- Respondent must provide details of prior softball operator experience for at least 2 years.
- Respondent must provide proof that they are able to obtain a Certificate of Liability Insurance in the amounts stated within the proposal documents.

Fee and Award of Contract:

Upon selection, final contract amount will be subject to negotiation to determine exact scope of services to be provided and final contract fee amount, if any, and a contract outlining all relevant terms shall be executed by both parties. Selection does not guarantee award of the contract. In the event the Contractor and the City fail to agree to a contract, the City will choose from remaining respondents or put out another Request for Proposals.

The City reserves the right, at its sole discretion, to cancel or modify the RFP in part or in its entirety.

The City will not reimburse respondents for any costs incurred in preparation or submission of the proposal. All proposals are made at the sole cost of the Respondent. Proposed fee should not include or consider the costs incurred in preparation of the proposal.

The City may waive any informalities or minor defects or reject any and all proposals. Any proposal received after the time and date specified shall not be considered. No Respondent may withdraw a proposal within 60 days after the actual date of the opening thereof (weekends and holidays excluded).

State and local vendor preferences may apply, if a written claim is made at the time the proposal is submitted.

Submission of Proposals:

Proposals should be received at the address below on or before **Wednesday, June 28, 2017 at 4:00 p.m.** Late proposals will not be accepted. Proposals should be hand delivered or mailed. Emailed or faxed proposals will not be accepted. Respondents are to submit all materials together in a sealed packet and clearly mark on the outside of the package "RFP FY17-14 - Windmill Park Softball Operator"

Mailing Address:

City of Fairmont
Attn: Paula Friend, Purchasing Coordinator
200 Jackson St., Room 305
Fairmont, WV 26554

Proposals are to be sent in triplicate (3 copies, one being unbound, to enable the City to scan and email the proposals to the review committee) and are to include the following:

- A timeline indicating approximate practice and league game dates/times and tournament game dates/times.
- Response to Respondent Questions (Appendix A)
- Reference sheet (Appendix B)
- Cost sheet with detailed team and/or participant fee breakdown
- Proof of ability to obtain the required Certificate of Liability Insurance

- Must provide a State of WV Business License or 501(c)(3) documentation for tax-exempt organizations. Additionally, a City of Fairmont Business License will be required of the awarded Contractor.

Proposals containing additional information or missing any contents listed in the RFP will be accepted. Please provide explanation as to why submitted proposal deviates from that described in the RFP.

The City reserves the right to request additional information from any respondent after submission of proposal including but not limited to: additional design templates, clarification of submitted materials, and/or interviews or to allow for corrections of misinformation or omitted information.

Improvements or suggestions to any condition in the RFP are welcome and should be explained in the bid. Requirements are somewhat flexible and could be altered given a better idea or method.

By submitting the proposal, the Respondent relinquishes all rights to submitted proposals or ideas continued therein, and the City reserves the right to retain all submitted proposals and to use any ideas in any proposal submitted, regardless of whether or not the proposal is selected.

All material submitted in response to the RFP shall become property of the City and will not be returned.

Prior to the execution of the agreement between the City and the Contractor, the contents of each proposal will remain confidential, to the extent permitted by law, and not made available to anyone except those involved in the selection process.

VI. CLARIFICATIONS

Any questions about requirements or any other instruction contained within the RFP or relating to the RFP should be directed to:

Paula Friend
Purchasing Coordinator
Phone: (304)366-6212, Ext. 310
Email: pfriend@fairmontwv.gov

The deadline for requesting clarification is fourteen (14) days prior to the due date for proposals. Any clarifications made in response to questions received will be posted as an addendum on the City's website located at fairmontwv.gov/bids.aspx by Friday, June 16, 2017. It is the responsibility of the Contractor to check the website for any addenda.

VII. SELECTION PROCESS

Selection of proposals will be at the sole judgment of the City. The City will consider all parts of the proposal collectively, but place an emphasis on template design, prior experience, and cost in the selection process. The selection process may include an interview session.

The City will select the respondent that in the sole judgment of the City best satisfies the requirements in the RFP and the expectations of the City and can do so at the best value to the City. The City will select the lowest responsible bidder.

Selection does not guarantee a contract. After selection, the Contractor and City will discuss and agree on a final scope of work and final contract amount and terms of the Contract. If the Contractor and City fail to reach an agreement, the City is free to select from remaining available respondents, cancel the RFP, or issue an additional Request for Proposals.

VIII. CONTRACT AND COMPLETED SOFTBALL OPERATOR AGREEMENT

The Contract between the Operator and the City will include provisions indicating a season and tournament timeline to begin in August 2017. The contract will be for a softball operator and will include no guarantee or intent to contract for future services.

IX. PUBLIC NATURE OF RESPONSE MATERIAL

Responses to this RFP will become the exclusive property of the City of Fairmont. All materials, unless defined and labeled by the respondent as “trade secrets” or “proprietary business information” may be subject to disclosure upon request under the West Virginia Freedom of Information Act found in West Virginia Code §29B-1-1 et seq. The City shall not be liable or responsive for the disclosure of any such information.

X. LEGAL ADVERTISEMENT

This Request for Proposals will be advertised in the Times West Virginian as a Class II legal ad on Thursday, May 25, 2017 and again on Friday, June 2, 2017.

XI. KEY DATES

A. Thursday, May 25, 2017	RFP Release Date
B. Wednesday, June 14, 2017	Final Date for Clarifying Questions
C. Monday, June 19, 2017	Final addenda (if any issued) will be posted online
D. Wednesday, June 28, 2017	Proposals Due by 4:00 p.m.

REQUEST FOR PROPOSALS (RFP) – FY17-14
WINDMILL PARK SOFTBALL OPERATOR
FOR THE CITY OF FAIRMONT, WEST VIRGINIA

APPENDIX A
RESPONDENT QUESTIONS

(Please provide responses on a separate page)

1. Describe your organization's experience in implementing a softball league (practices and games) and softball tournaments. Also comment on the overall history of the organization.
2. Clearly define responsibilities of the City during the league seasons and tournaments.
3. Describe the expected interaction between your organization and the City before and during the league seasons and tournaments.
4. Provide all necessary contact information for your organization.
5. Provide any additional information about your organization that you feel is relevant to the decision process.

REQUEST FOR PROPOSALS (RFP) – FY17-14
WINDMILL PARK SOFTBALL OPERATOR
FOR THE CITY OF FAIRMONT, WEST VIRGINIA

APPENDIX B

REFERENCES

Name of Respondent: _____

Reference 1

Contact Name: _____ Title: _____

Organization: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Email Contact: _____

Reference 2

Contact Name: _____ Title: _____

Organization: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Email Contact: _____

Reference 3

Contact Name: _____ Title: _____

Organization: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Email Contact: _____



REQUEST FOR PROPOSALS (RFP) – FY17-14

WINDMILL PARK SOFTBALL OPERATOR FOR THE CITY OF FAIRMONT, WEST VIRGINIA

Proposals Due: Wednesday, June 28, 2017 at 4:00 p.m. (EST)

SECTION 0120 REQUEST FOR PROPOSALS

Proposal of _____ (hereinafter called “**PROPOSER**”), organized and existing under the laws of the State of _____ doing business as _____*, to the **CITY OF FAIRMONT, WEST VIRGINIA** (hereinafter called “**OWNER**”).

In compliance with the Request for Proposals (RFP), Proposer hereby proposes to provide the City of Fairmont in strict accordance with the Contract Documents, at the prices stated within the proposal.

By submission of this proposal, each Proposer certifies, and in the case of a joint proposal each party thereto certifies as to his own organization, that this proposal has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this proposal with any other competitor.

Proposer acknowledges receipt of the following **ADDENDUM** (if there is not an addendum issued during the process, Proposer will leave this section blank):

Addendum # _____	Dated _____	Proposer to initial _____
Addendum # _____	Dated _____	Proposer to initial _____
Addendum # _____	Dated _____	Proposer to initial _____
Addendum # _____	Dated _____	Proposer to initial _____

***NOTE: Insert “a corporation”, “a partnership”, or “an individual” as applicable.**

Respectfully submitted:

Signature Title

Address

Phone # Date

(Seal – if BID is by a corporation)

Attest _____



REQUEST FOR PROPOSALS (RFP) – FY17-14

WINDMILL PARK SOFTBALL OPERATOR FOR THE CITY OF FAIRMONT, WEST VIRGINIA

Proposals Due: Wednesday, June 28, 2017 at 4:00 p.m. (EST)

CERTIFICATION AND SIGNATURE PAGE

By signing below, I _____ on behalf of _____,

hereinafter Company, certify that I have reviewed the City of Fairmont's solicitation for bid or request for proposal for **RFP FY17-14 – WINDMILL PARK SOFTBALL OPERATOR FOR THE CITY OF FAIRMONT, WEST VIRGINIA** in its entirety; that the requirements, terms and conditions, and other information contained therein are clearly understood; that the Company is submitting this bid or proposal or response for the City of Fairmont's review and consideration; that the Company agrees to hold firm the terms and conditions of this bid or proposal or response for a period of 60 (sixty) days, the bid hold period; that if during the bid hold period, the City of Fairmont accepts the terms and conditions of this bid, proposal or response, that the terms and conditions, including but not limited to terms and conditions relating to price, quantities, and shipping and delivery, constitute a binding and valid contract between the Company and the City of Fairmont for the time period stated in the solicitation for bid or request for proposal; that I am authorized by the Company to execute this certification and any documents relating thereto on the Company's behalf; that I am authorized to bind the Company in a contractual relationship with the City of Fairmont; and that this certification and signature page together with the attached proposal or response and the solicitation for bid or request for proposal are sufficient to indicate that a contract for the sale of goods described therein has been made between the Company and the City of Fairmont.

Company

Representative Name & Title (Print)

Representative Signature

Date

Contact Phone

Contact Fax

Email Address

FORM INS-1

CITY OF FAIRMONT INSURANCE AND CERTIFICATE OF INSURANCE REQUIREMENTS Edition 05/15/17

Prior to the commencement, proof of coverage must be approved by the City of Fairmont via a certificate of insurance. The certificate shall be signed by the authorized representative of the insurance company and include the following conditions:

1. The Certificate Holder, The City of Fairmont, PO Box 1428, Fairmont, WV 26554 shall be listed as additional insured to include the City's boards and commissions.
2. Defense costs are outside of policy limits of coverage. All stated limits shall be above any and all defense costs and expenses such as law costs, fees for lawyers and investigators, and expenses for litigation, settlement, adjustment and investigation of claims and suits.
3. The certificate shall contain a provision that the policy shall not be cancelled or materially changed without 30 days prior written notice to the certificate holders.
4. All liability coverage shall be primary and not contributory.
5. The Workers' Compensation and Employers Liability policy will contain a waiver of subrogation by the Insured and insurance company against the certificate holders (to the extent permitted by applicable state law). Employers' liability must be "broad form" and include coverage to protect certificate holders for claims brought under Section 23-4-2 of the West Virginia code.
6. Indicate that the Certificate Holders have been included as additional insureds under all policies.
7. All liability policies must include a waiver on the part of the insurer, by subrogation or otherwise, of all rights against the certificate holders and additional insureds.
8. The certificate must identify states where coverage applies.
9. Contract may require Contractor to provide All Risk Builders Risk/Installation Floater to include rigging and moving on a completed value basis to include material on site and in transit with limits equal to the total value of the contract; and include certificate holders as additional insured, when the materials purchased for the City of Fairmont are included in this contract.
10. Maximum deductible \$5,000 on any insurance policy, deductible cost is to be borne by the contractor.
11. Maximum self-insurance amount \$5,000 on any insurance policy, self-insurance amount to be borne by the contractor.
12. The insurer or its agent, upon written request, will provide evidence of additional coverage as required by certificate holders.
13. All companies must have a Financial Rating of "A" or better rating by A. M. Best & Company and be admitted carrier by State of West Virginia.
14. All liability forms are to be occurrence basis, with Comprehensive General Liability or Commercial Liability to include Bodily Injury and Property Damage, including Contractors Liability, Completed Operations; Products Liability, Broad Form Property Damage, Explosion, Collapse, Underground Hazard, Personal Injury, Coverage for all losses, expenses and damages due to interruption of production, distribution and/or sale of potable water by the City of Fairmont including loss of use and any and all incidental and consequential losses, including financial losses and expenses, and Coverage for environmental impairment and pollution, including sudden and accidental pollution losses.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/23/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

INSURANCE AGENCY

CONTACT

NAME:

PHONE

(A/C. No. Ext.:

FAX

E-MAIL

(A/C. No.):

ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURED

CONTRACTOR

INSURER A:

INSURER B:

INSURER C:

INSURER D:

INSURER E:

INSURER F:

COVERAGES

CERTIFICATE NUMBER: CL1541605115

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY						
	<input checked="" type="checkbox"/> ANY AUTO						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per person) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB						
	EXCESS LIAB						
							EACH OCCURRENCE \$
							AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

City of Fairmont
PO Box 1428
Fairmont, WV 26555

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2010/05)

INS025 (2010/05).01

© 1988-2010 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

SAMPLE AGREEMENT

This agreement dated this the ____ day of _____, 2017, by and between the Fairmont Parks Commission, a statutory board or commission, (hereafter Commission) of the City of Fairmont, a WV municipal corporation (hereinafter City) and _____.

WHEREAS, the City is the owner of a certain recreation facility located within its corporate limits consisting in part of three baseball/softball fields one of which is lighted, dugouts, spectator stands, one football field, soccer fields, basketball courts and restroom facilities, commonly known as Windmill Park.

WHEREAS, the City has by ordinance created the Commission and has vested said Commission with the administration of Windmill Park.

WHEREAS, the Commission being cognizant of _____ purpose and their limited ability to provide participants with adequate facilities and services agrees and deems it in the best interest of the City and its citizens and the Commission that such services may be conducted by _____ at its Windmill Park facility.

WHEREAS, the Commission by resolution duly adopted on the _____ day of _____ 2017, did authorize the President of the Commission to execute this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein provided that the Commission and _____ agree that:

1. The Commission covenants and agrees that it shall from time to time make available to _____, for the exclusive use of softball games; tournaments and practices; fields I and II as designated on the plan of Windmill Park, one of which is a lighted ball field, and dugouts, spectator stands, restroom and adjacent parking lots located at the Windmill Park facility.

2. _____ covenants and agrees that the scheduling of any and all of its events utilizing the Windmill Park facilities as provided for herein shall be coordinated with and conducted through the City of Fairmont. _____ further covenants and agrees that prior to August 1, 2017, _____ will supply a complete and detailed schedule

of any and all planned events including practices, to the City for purposes of coordinating the use of said facility. The schedule will be presented to and approved by the City to ensure equal use and maximum utilization of said facility for _____.

3. The Commission covenants and agrees that it shall provide the necessary utilities for the facilities including water, gas and electric; however _____ covenants and agrees that they shall be responsible for operation of the utilities, including the ball field lights, and shall not commit any waste associated therewith. _____ covenants and agrees that they shall fully indemnify and save the City and the Commission harmless from and against all damage, losses, or claims that may occur or result from _____'s failure to properly operate the aforesaid utilities.

4. The Commission covenants and agrees that it shall be responsible for the spring start up grass cutting and opening cleanup.

5. _____ covenants and agrees that they shall be responsible for normal and routine maintenance of the ball fields including dragging during the term of this agreement and they shall further be responsible for the normal and routine cleaning and maintenance of the dugouts and restrooms facilities, excluding however, the playground, concession, and picnic facilities, on a daily basis or after any scheduled game, event or practice and shall provide litter and garbage control on the basis aforesaid for all areas of the Windmill Park Facility covered by this agreement. In the event that _____ fails to keep any of the facilities covered by this agreement in a clean and orderly state, the Commission at its option, at _____ sole cost and expense, may clean or have the premises cleaned and restored to an orderly state and _____ shall upon demand, without delay, pay to the Commission the total cost of cleaning and restoration.

6. _____ covenants and agrees that they shall comply with all laws, orders and regulations of federal, state and municipal authorities including but not limited to all safety regulations and health department rules and regulations.

7. _____ covenants and agrees that they shall provide Insurance for all events and during the term of the Agreement as follows:

<u>Type of Insurance</u>	<u>Limits</u>
General Liability	\$1,000,000.00
Damages to Leased Premises	100,000.00
Medical Expenses (anyone/person)	500.00
Personal & Adv Injury	1,000,000.00
General Aggregate	2,000,000.00
Umbrella Liability	1,000,000.00
Workers Compensation And Employers' Liability	Statutory

Upon execution of the Agreement, proof of coverage must be approved by the Commission and/or the City of Fairmont via a certificate of insurance in the form of an Accord Certificate, a sample of which is attached. The certificate shall be signed by the authorized representative of the insurance company and must include the following conditions:

- a. The Certificate Holder. The City of Fairmont, PO Box 1428, Fairmont, WV 26554 shall be listed as an additional insured to include the City's boards and commissions, including the Fairmont Parks Commission.
- b. Defense costs are outside of my policy limits of coverage. All stated limits shall be above any and all defense costs and expenses such as law costs, fees for lawyers and investigators, and expenses for litigation, settlement, adjustment and investigation of claims and suits.
- c. The certificate shall contain a provision that the policy shall not be cancelled or materially changed without 30 days prior written notice to the certificate holder.
- d. All liability coverage shall be primary and not contributory.
- e. If _____ shall have employees, they must provide Workers' Compensation Insurance and Employers' Liability Insurance. The Workers' Compensation and Employers Liability policy will contain a waiver of subrogation by the Insured and insurance company against the certificate holders (to the extent permitted by applicable state law). Employers' liability must be "broad form" and include coverage to protect certificate holders for claims brought under Section 23-4-2 of the West Virginia code.

- f. Indicate that the Certificate Holder has been included as additional insured under all coverage.
 - g. All liability policies must include a waiver on the part of the insurer, by subrogation or otherwise, of all rights against the certificate holder and additional insured.
 - h. The certificate must identify states where coverage applies.
 - i. Maximum deductible \$5,000 on any insurance policy, deductible cost is to be borne by _____.
 - j. Maximum self-insurance amount \$5,000 on any insurance policy, self-insurance amount to be borne by _____.
 - k. All companies with whom insurance is placed must have an "A" or better rating by A. M. Best & Company and be admitted carrier by State of West Virginia.
 - l. All liability forms are to be occurrence basis, with Comprehensive General Liability or Commercial Liability to include Bodily Injury and Property Damage and Broad Form Property Damage, including damage to leased premises, medical expense, and general aggregate for all activities conducted by _____.
8. _____ covenants and agrees that they shall save the Commission and the City harmless from and indemnify it against all liabilities, losses, claims, demands, costs, expenses, and judgments of any nature arising or alleged to arise from or in connection with any injury to, or the death of, any person or persons or loss or damage to property on or about the premises or any adjoining property arising from or connected with the premises during the term of this agreement; performance of any labor or services or the furnishing of any materials or other property in respect of the premises or any part thereof by or at the request of _____.
9. _____ shall resist and defend any action, suit or proceeding brought against the City or the Commission by reason of the occurrence of any of the aforementioned by counsel designated by the City or the Commission.
10. It is understood and agreed by and between the parties hereto that no relationship whatsoever other than described herein is intended or hereby created or established and it is understood and agreed that nothing herein contained shall be construed so as to create a partnership, joint venture or joint enterprise between the City, Commission and

_____ or as constituting _____ as the agent, representative or employee of the City or the Commission for any purpose.

11. _____ covenants and agrees that they shall provide financial statements delineating an itemized record of its receipts and disbursements and _____ shall further make available to the City and the Commission upon request any and all of said financial records.

12. It is understood by and between the parties that any construction of new facilities or major maintenance or repair work of any of the existing facilities located at Windmill Park shall take preference over any scheduled event and no scheduled event or practice shall interfere with the aforesaid construction, maintenance or repair.

13. The terms of this Agreement and all privileges, rights, obligations, duties and liabilities hereunder shall remain in full force and effect from the date first above written until the _____ day of _____, 2017, however, either party upon 30 days written notice to the other, may with impunity, terminate this agreement for any reason whatsoever.

15. This agreement constitutes the entire agreement existing by and between the parties. There are no other agreements, oral or otherwise, which modifies or affects this agreement.

The AGREEMENT and all the terms and provisions herein shall extend to and be binding on the parties, their successors and assigns.

WITNESS the following signatures:

FAIRMONT PARKS COMMISSION,

By: _____,
Commission President

ATTEST: _____

SEAL:

Awarded Vendor:

_____, Individually





